

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ANTWOINE SCONIERS,

Plaintiff,

v.

WARDEN CALVIN JOHNSON, et al.,

Defendants.

Case No. 2:22-cv-01739-GMN-VCF

**ORDER**

(ECF Nos. 16, 17, 18, 19, 20)

Plaintiff Antwoine Sconiers brings this civil-rights action to redress constitutional violations that she allegedly suffered while she was incarcerated at High Desert State Prison. (ECF No. 15). On January 17, 2023, the Court screened Sconiers's complaint, allowing some claims to proceed and granting her leave to file an amended complaint by February 17, 2023, if she chose to pursue claims about post-filing issues raised in her motions. (ECF No. 14). The Court denied Sconiers's application to proceed *in forma pauperis* ("IFP") without prejudice to her ability to pay the filing fee, file a new fully complete IFP application, or demonstrate that she was unable to obtain the required financial documents from prison officials. (*Id.* at 23). And the Court denied Sconiers's emergency motions seeking pretrial equitable relief because they concerned matters that fell outside of the complaint. (*Id.* at 19–21, 23).

Two weeks after the screening order was entered, Sconiers filed five motions seeking various relief. (ECF Nos. 16–20). In one motion, Sconiers argues that she does not intend to file an amended complaint and wants to proceed on the claims as stated in her complaint and the Court's January 17, 2023, screening order. (ECF No. 19). The Court grants this motion.

In another motion, Sconiers provides the first three pages of the Court's approved IFP application, which she has fully completed, and a written statement detailing the efforts she undertook to try to obtain the required financial certificate and six-month inmate trust fund account statement from prison officials. (ECF No. 20). Sconiers also details the efforts she undertook to seek status updates about those documents from law librarians, the Nevada Department of

1 Corrections (“NDOC”) inmate banking department, and a prison caseworker. (*Id.* at 5–6). The  
2 Court is satisfied that Sconiers has done all that she can to obtain the required financial documents,  
3 so it considers her IFP application complete. And the Court defers a decision on the IFP  
4 application to later.

5 Finally, in three identical motions, Sconiers seeks a restraining order, a preliminary  
6 injunction, and a show-cause order requiring that prison officials release her from administrative  
7 segregation, transfer her to another prison, and keep all Defendants and nonparties Caseworker J.  
8 Jefferson, Sergeant Sanchez, and Correctional Officer Morales away from her. (ECF Nos. 16, 17,  
9 18). The Court denies the motion for an order to show cause (ECF No. 18) because that is not the  
10 appropriate procedural vehicle to obtain the extraordinary relief that Sconiers seeks. And Sconiers  
11 cannot shift the heavy burden to obtain that relief by having Defendants show cause why a  
12 temporary restraining order or injunctive-relief order should not issue.

13 What remains are Sconiers’s motions for a preliminary injunction and a temporary  
14 restraining order. (ECF Nos. 16, 17). Sconiers declares that since filing the complaint, she has  
15 been consistently placed in unsafe housing conditions, including being placed in a cell with several  
16 inmates who are known to be violent sexual predators and who threatened and harassed her, which  
17 purportedly happened in December 2022 and January 2023, and being placed in administrative  
18 segregation from January 13 to 27, 2023, without any bedding, mattress, or basic hygiene products  
19 like soap, oral-care items, and toilet paper. (*See, e.g.*, ECF No. 16 at 3–11). The Court will set a  
20 deadline for the NDOC to file any response to the motions seeking a temporary restraining order  
21 and a preliminary injunction.

22 For the foregoing reasons,

23 **IT IS HEREBY ORDERED** that the application to proceed *in forma pauperis* (ECF  
24 No. 20) is **CONSIDERED COMPLETE**, but a decision on the application is **DEFERRED** until  
25 later.

26 **IT IS FURTHER ORDERED** that the motion for an order to show cause (ECF No. 18)  
27 is **DENIED**.

1           **IT IS FURTHER ORDERED** that the Nevada Department of Corrections has until  
2           **February 15, 2023** to file any response to the motion for a temporary restraining order (ECF  
3           No. 17) and motion for a preliminary injunction (ECF No. 16). Plaintiff Sconiers will have seven  
4           (7) days after a response is filed to file any reply.

5           **IT IS FURTHER ORDERED** that the motion to proceed without an amended complaint  
6           (ECF No. 19) is **GRANTED**. Consistent with the Court's January 17, 2023, screening order (ECF  
7           No. 14), this action will proceed only on the following claims: (1) First Amendment retaliation  
8           against Defendants Johnson, Padilla, Kay, Rosses, and Ashcroft; (2) Eighth Amendment failure to  
9           protect against Defendants Kay, Padilla, Rosses, and Ashcroft; and (3) Eighth Amendment  
10          unconstitutional conditions of confinement claim against Defendant Johnson.

11          **IT IS FURTHER ORDERED** that given the nature of the claims that the Court has  
12          permitted to proceed, this action is stayed for 90 days to allow Sconiers and Defendants an  
13          opportunity to settle their dispute before the \$350 filing fee is paid, an answer is filed, or the  
14          discovery process begins. During this 90-day stay period and until the Court lifts the stay, no other  
15          pleadings or papers may be filed in this case, and the parties will not engage in any discovery, nor  
16          are the parties required to respond to any paper filed in violation of the stay unless specifically  
17          ordered by the Court to do so.<sup>1</sup> The Court will refer this case to the Court's Inmate Early Mediation  
18          Program, and the Court will enter a subsequent order about that matter. Regardless, on or before  
19          90 days from the date this order is entered, the Office of the Attorney General will file the report  
20          form attached to this order regarding the results of the 90-day stay, even if a stipulation for  
21          dismissal is entered prior to the end of the 90-day stay. If the parties proceed with this action, the  
22          Court will then issue an order setting a date for Defendants to file an answer or other response.  
23          Following the filing of an answer, the Court will issue a scheduling order setting discovery and  
24          dispositive motion deadlines.

25  
26          \_\_\_\_\_  
27          <sup>1</sup> The response and reply briefs that the Court has permitted the parties to file on the motions  
for a temporary restraining order and a preliminary injunction are excepted from this stay.

1           “Settlement” may or may not include payment of money damages. It also may or may not  
2 include an agreement to resolve Sconiers’s issues differently. A compromise agreement is one in  
3 which neither party is completely satisfied with the result, but both have given something up and  
4 both have obtained something in return.

5           **IT IS FURTHER ORDERED** that if the case does not settle, Sconiers will be required to  
6 pay the full \$350 statutory filing fee for a civil action. This fee cannot be waived, and the fee  
7 cannot be refunded once the Court enters an order granting Sconiers’s application to proceed *in*  
8 *forma pauperis*. If Sconiers is allowed to proceed *in forma pauperis*, the fee will be paid in  
9 installments from her prison trust account. *See* 28 U.S.C. § 1915(b). If Sconiers is not allowed to  
10 proceed *in forma pauperis*, the full \$350 statutory filing fee for a civil action plus the \$52  
11 administrative filing fee, for a total of \$402, will be due immediately.

12           **IT IS FURTHER ORDERED** that if any party seeks to have this case excluded from the  
13 inmate mediation program, that party will file a “motion to exclude case from mediation” no later  
14 than 21 days before the date set for mediation. The responding party will have 7 days to file a  
15 response. No reply will be filed. Thereafter, the Court will issue an order, set the matter for  
16 hearing, or both.

17           **IT IS FURTHER ORDERED** that if Sconiers needs a translator to participate in the  
18 mediation program, she will file a notice identifying the translation language and the need for the  
19 translator within 30 days from the date of this order.

20           **IT IS FURTHER ORDERED** that the Attorney General’s Office will advise the Court  
21 within 21 days of the entry date of this order whether it will enter a limited notice of appearance  
22 on behalf of the Interested Party identified below for the purpose of settlement. No defenses or  
23 objections, including lack of service, will be waived because of the filing of the limited notice of  
24 appearance.

25           **IT IS FURTHER ORDERED** that the Clerk of Court is directed to add the Nevada  
26 Department of Corrections to the docket as an Interested Party and electronically serve a copy of  
27 this order, the screening order (ECF No. 14), the complaint (ECF No. 15), the motion for a

1 preliminary injunction (ECF No. 16), and the motion for a temporary restraining order (ECF  
2 No. 17) on the Office of the Attorney General of the State of Nevada by adding the Attorney  
3 General of the State of Nevada to the Interested Party on the docket. This does not indicate  
4 acceptance of service.

5 The Clerk of the Court is further directed to change the spelling of Defendant Sgt. Ashcraft  
6 on the docket to Defendant Sgt. Ashcroft.

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8 DATED THIS 2 day of Feb 2023.

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12 Gloria M. Navarro, Judge  
13 United States District Court  
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REPORT OF ATTORNEY GENERAL RE:  
RESULTS OF 90-DAY STAY

8  
9 **NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS FORM. THE INMATE PLAINTIFF SHALL NOT FILE THIS FORM.**

10 On \_\_\_\_\_, the Court issued an order stating that it had conducted its  
11 screening under 28 U.S.C. § 1915A, and that certain specified claims in this case would proceed.  
12 Thereafter on \_\_\_\_\_, the Court ordered the Office of the Attorney General of the  
13 State of Nevada to file a report within 90 days to indicate the status of the case at the end of the  
14 90-day stay. By filing this form, the Office of the Attorney General hereby complies.

15 **REPORT FORM**

16 [Identify which of the following two situations (identified in bold type) describes the case, and  
17 follow the instructions corresponding to the proper statement.]

18 **Situation One: Mediated Case: The case was assigned to mediation by a court-appointed mediator during the 90-day stay.** [If this statement is accurate, check **ONE** of the six statements below and fill in any additional information as required, then proceed to the signature block.]

19 \_\_\_\_\_ A mediation session with a court-appointed mediator was held on  
20 \_\_\_\_\_ [enter date], and as of this date, the parties have reached a  
21 settlement (even if paperwork to memorialize the settlement remains to be  
22 completed). (If this box is checked, the parties are on notice that they must  
SEPARATELY file either a contemporaneous stipulation of dismissal or a motion  
requesting that the Court continue the stay in the case until a specified date upon  
which they will file a stipulation of dismissal.)

23 \_\_\_\_\_ A mediation session with a court-appointed mediator was held on  
24 \_\_\_\_\_ [enter date], and as of this date, the parties have not reached a  
25 settlement. The Office of the Attorney General therefore informs the Court of its  
intent to proceed with this action.

26 \_\_\_\_\_ No mediation session with a court-appointed mediator was held during the 90-day  
27 stay, but the parties have nevertheless settled the case. (If this box is checked, the  
parties are on notice that they must SEPARATELY file a contemporaneous  
stipulation of dismissal or a motion requesting that the Court continue the stay in

*this case until a specified date upon which they will file a stipulation of dismissal.)*

\_\_\_\_\_ No mediation session with a court-appointed mediator was held during the 90-day stay, but one is currently scheduled for \_\_\_\_\_ [enter date].

\_\_\_\_\_ No mediation session with a court-appointed mediator was held during the 90-day stay, and as of this date, no date certain has been scheduled for such a session.

\_\_\_\_\_ None of the above five statements describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

\* \* \* \* \*

**Situation Two: Informal Settlement Discussions Case:** The case was NOT assigned to mediation with a court-appointed mediator during the 90-day stay; rather, the parties were encouraged to engage in informal settlement negotiations. [If this statement is accurate, check **ONE** of the four statements below and fill in any additional information as required, then proceed to the signature block.]

\_\_\_\_\_ The parties engaged in settlement discussions and as of this date, the parties have reached a settlement (*even if the paperwork to memorialize the settlement remains to be completed*). (*If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.*)

\_\_\_\_\_ The parties engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

\_\_\_\_\_ The parties have not engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

\_\_\_\_\_ None of the above three statements fully describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Email address